

REMARKS

The Office Action of 11/24/05 has been carefully reviewed and the foregoing amendment has been made in response thereto, thereby defining the present invention more clearly and distinguishing it more positively from the prior art. For these reasons and those set forth in detail below, favorable reconsideration and early allowance of the claims are courteously requested.

The Examiner has reopened prosecution in view of the Reply Brief filed on 26 April 2004 and set forth new grounds of rejection. Applicant hereby elects to file a reply under 37 CFR 1.111 in response to the new grounds of rejection.

Claims 6 and 25 are hereby canceled. Claims 2-5, 7-17, 19, 21 and 26, 34 are amended herein. New claims 35-40 are added herein.

Claims 7, 8, 14-16, 28, 31 and 32 are rejected under 35 U.S.C. §102 (b) as being anticipated by Zapol et al. 5485827. The rejection based on Zapol et al. 5485827 has been withdrawn by the Examiner. The reason for the withdrawal was discussed in a telephone interview telephone interview between Examiner Mendoza and Agent Kelley on or about March 22, 2005 and is set forth in the telephone interview summary.

Claims 9, 10, 14-16, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Zapol et al. 6063407. Claims 9, 10, 14-16 and 30 are amended herein to include limitation not anticipated by Zapol et al. In particular amended claims 9, 10, 14 - 16, 29 and 30 include new limitations setting forth a portable oxygen tank with an empty weight of less than 5 pounds, a pressure regulating valve, hollow tube and facemask for delivering oxygen to a patient and none of these limitations are anticipated by Zapol et al. In addition, amended claims 9 and 10 set forth an emergency medical kit that contains one of clopidogrel, heparin and a glycoprotein IIb/III/b inhibitor in a form and dosage

suitable for self-administration during a sudden ischemic event and this structural limitation is not anticipated by Zopal et al. Moreover, amended claims 14 and 15 set forth an emergency medical kit that contains magnesium in a form and dosage suitable for self-administration during a sudden ischemic event and this structural limitation is not anticipated by Zopal et al. Amended claim 16 sets forth an emergency medical kit that contains a calcium channel blocker and a glycoprotein IIb/IIIa inhibitor in a form and dosage suitable for self-administration during a sudden ischemic event and this structural limitation is not anticipated by Zopal et al. Amended claims 29 and 30 set forth an emergency medical kit that contains an angiotensin-converting enzyme (ACE) inhibitor in a form and dosage suitable for self-administration during a sudden ischemic event and this structural limitation is not anticipated by Zopal et al.

In view of the structural limitations added described above, it is respectfully submitted that the rejection of claims 9, 10, 14-16, 29 and 30 as being anticipated by Zapol et al. 6063407 is overcome. Reconsideration and withdrawal of the rejection is hereby courteously requested.

Claims 2-4, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapol et al. 6063407 in view of Monhan 4699288. Claims 2-4, 26 and 27 are amended herein to include limitations not taught or suggested by Zapol et al. or Monhan. In particular, amended claims 2 and 3 set forth an emergency medical kit that contains isosorbide in a form and dosage suitable for self-administration during a sudden ischemic event and this structural limitation is not taught or suggested by Zopal et al or by Monhan. Amended claim 4 sets forth an emergency medical kit that contains one of clopidogrel, heparin, and a glycoprotein IIb/IIIa inhibitor in a form and dosage suitable for self-administration during a sudden ischemic event, and this structural limitation is not taught or suggested by Zopal et al or by Monhan. Amended claims 26 and 27 set

forth an emergency medical kit that contains a beta-adrenergic antagonist (Beta Blocker) in a form and dosage suitable for self-administration during a sudden ischemic event and this structural limitation is not taught or suggested by Zopal et al or by Monhan.

In view of the new structural limitations described above, it is respectfully submitted that the rejection of claims 2-4, 26 and 27 as being unpatentable over Zapol et al. in view of Monhan is overcome. Reconsideration and withdrawal of the rejection is hereby courteously requested.

Claims 5, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapol et al. 6063407 in view of Anderson 4197842. Claims 5, 13 and 17 are amended herein to include limitations not taught or suggested by Zapol et al. or by Anderson. In particular, amended claim 5 sets forth an emergency medical kit that contains nitroglycerin configured as one of a sublingual tablet and a transdermal patch and this structural limitation is not taught or suggested by Zopal et al or by Anderson. Amended claim 13 sets forth an emergency medical kit that contains a beta-adrenergic antagonist (Beta Blocker) in a form and dosage suitable for self-administration during a sudden ischemic event, and this structural limitation is not taught or suggested by Zopal et al or by Anderson. Amended claim 17 sets forth an emergency medical kit that contains magnesium and nitroglycerin in a form and dosage suitable for self-administration during a sudden ischemic event, and this structural limitation is not taught or suggested by Zopal et al or by Anderson.

In view of the new structural limitations described above, it is respectfully submitted that the rejection of claims 5, 13 and 17 as being unpatentable over Zapol et al. in view of Anderson is overcome. Reconsideration and withdrawal of the rejection is hereby courteously requested.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zapol/Anderson in view of Lowell et al. 6292687. Claim 6 is canceled herein without prejudice.

Claims 19, 21, 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapol et al. 6063407 in view of Kirchgeorge et al. 6327497. Claims 19, 21, and 22 are amended herein to include limitations not taught or suggested by Zapol et al. or by Kirchgeorge et al. Claim 25 is canceled herein without prejudice.

Amended claim 19, 21 and 22 set forth a method for increasing a patient's chance to survive a sudden ischemic event without suffering permanent tissue damage. The claimed method includes steps for prescribing medications in a form suitable for self-administration during the sudden ischemic event, providing the patient with a portable emergency medical kit comprising the prescribed medications and a portable oxygen tank (20), pressure regulating valve (25), hollow delivery tube (30) and facemask (35) configured to deliver breathable oxygen to the patient at an appropriate pressure and flow rate during the sudden ischemic event. In addition, amended claims 19, 21 and 22 set forth limitations for informing the patient of what symptoms to look for, instructing the patient in the use of the breathable oxygen and the medications in the event that the sudden ischemic event occurs, and instructing the patient to keep the emergency medical kit readily available for use.

Applicant respectfully submits that these limitation are not taught or suggested by Zapol et al. or by Kirchgeorge et al. In particular, Zopal et al. states "that in an emergency field situation administration of NO gas could be accomplished by attaching a tank of compressed NO gas in N₂ and a second tank of oxygen or oxygen/N₂ mixture to an inhaler designed to mix gas from two sources by controlling the flow of gas from each source." (Col. 6, lines 44-50). However, Zopal et al. never teach or suggest the steps of,

prescribing medications in a form suitable for self-administration during a sudden ischemic event or of providing the patient with a portable emergency medical kit comprising the prescribed medications and a portable oxygen tank (20), pressure regulating valve (25), hollow delivery tube (30) and facemask (35) configured to deliver breathable oxygen to the patient at an appropriate pressure and flow rate during the sudden ischemic event or of informing the patient of what symptoms to look for or of instructing the patient in the use of the breathable oxygen and the medications in the event that the sudden ischemic event occurs or of instructing the patient to keep the emergency medical kit readily available for use. Each of these limitations is set forth in amended claims 19, 21 and 22.

Kirchgeorge et al teach a portable oxygen cylinder, regulator valve, gage, mask and hose housed in an emergency medical kit. However, Kirchgeorg et al. fail to teach or suggest the steps of prescribing medications in a form suitable for self-administration during the sudden ischemic event or of providing the patient with a portable emergency medical kit comprising the prescribed medications as set forth in each of amended claims 19, 21 and 22. Moreover, Kirchgeorg et al. fail to teach or suggest the steps of informing the patient of what symptoms to look for or of instructing the patient in the use of the breathable oxygen and the medications in the event that the sudden ischemic event occurs or of instructing the patient to keep the emergency medical kit readily available for use. Each of these limitations is set forth in each of amended claims 19, 21 and 22.

In addition to the new limitations set forth above, amended claims 21 and 22 set forth steps for identifying magnesium, nitroglycerin, a beta blocker, a calcium channel blocker, an ACE inhibitor, acetalylacylic acid, clopidogrel, heparin, and a glycoprotein IIb/IIIa inhibitor as one of the medications prescribed to be provided to the patient in the

emergency medical kit. Zapol et al. and Kirchgeorge et al. are completely silent about including any of these medications in an emergency medical kit.

In view of the new method step limitations described above, it is respectfully submitted that the rejection of claims 19, 21 and 22 as being unpatentable over Zapol et al. in view of Kirchgeorge et al. is overcome. Reconsideration and withdrawal of the rejection is hereby courteously requested.

Claims 12, 28, 29, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapol et al. 6063407 in view of Duhaylongsod 6141589. Claims 12, 28, 29, 33 and 34 amended herein to include limitation not taught or suggested by Zapol et al. or Kirchgeorge et al. Amended claims 12, 28 and 33 set forth an emergency medical kit that contains a calcium channel blocker in a form and dosage suitable for self-administration during a sudden ischemic event, and this structural limitation is not taught or suggested by Zopal et al or by Duhaylongsod. Amended claims 29 and 34 set forth an emergency medical kit that contains an ACE inhibitor in a form and dosage suitable for self-administration during a sudden ischemic event and this structural limitation is not taught or suggested by Zopal et al or by Duhaylongsod.

In view of the new structural limitations described above, it is respectfully submitted that the rejection of claims 12, 28, 29, 33 and 34 as being unpatentable over Zapol et al. in view of Duhaylongsod is overcome. Reconsideration and withdrawal of the rejection is hereby courteously requested.

New dependent claims 35 - 40 are added herein and each claim includes limitations that further distinguish it over the prior art of record.

With respect to the references relied upon by the Examiner, Applicant submits the following comments.

Zopal et al. (6063407) teaches a method for preventing vascular thrombosis that requires inhaling gaseous nitrous oxide (NO) into the lungs. Zopal et al. further suggest administering a second antithrombotic agent in combination with inhaled NO and lists aspirin, ticlopidine, monoclonal antibodies, nitroglycerin and sodium nitroprusside. (Col. 2, line 35.) In addition, Zopal et al. state; “in an emergency field situation administration of NO gas could be accomplished by attaching a tank of compressed NO gas in N₂ and a second tank of oxygen or oxygen/N₂ mixture to an inhaler designed to mix gas from two sources by controlling the flow of gas from each source.” (Col. 6, lines 44-50). However, Zopal et al. never suggest that combining the inhaled NO or any other medication with breathable oxygen offers any therapeutic benefit. Moreover, Zopal et al. never teach or suggest providing a patient with an emergency medical kit that includes a portable oxygen tank or a medication. In addition, Zopal et al. never teach or suggest the steps of providing the patient with a medical kit or instructing the patient in the use of a medical kit or instructing the patient to keep the medical kit readily available.

Mohan (4699288) is limited to a pressure vessel with a particular construction and never teaches or suggests any medication or that the pressure vessel filled with oxygen could be used by a patient to self administer oxygen or any other medication during a sudden ischemic.

Anderson (4197842) teaches a portable pulmonary respirator for treating respiratory diseases and supplying emergency pure oxygen to the heart and airways. The respirator includes a high-pressure tank containing oxygen, a pressure-regulating valve, a hose and facemask as well as a nebulizer used to push a medicinal mist into the patient’s airways, (Col. 3, line4). However, Anderson fails to teach or suggest any treatment for a sudden ischemic event and never specifically identifies a single medication.

Kirchgeorg et al. (6327497) teach a portable oxygen cylinder, regulator valve, gage, mask and hose housed in an emergency medical kit and usable during a sudden ischemic event. However, Kirchgeorg et al. is completely silent regarding including a single medication in the emergency medical kit. Moreover, Kirchgeorg et al. never teach or suggest the steps of providing the patient with a medical kit or instructing the patient in the use of a medical kit or instructing the patient to keep the medical kit readily available.

Duhaylongsod (6141589) teaches a method, compositions and apparatus for inducing reversible ventricular asystole in a beating heart, (suppressing autonomous heartbeat) during surgery, while maintaining the ability for the heart to be paced electrically. However, Duhaylongsod fails to teach or suggest any medication in a form and dosage suitable for self administration during a sudden ischemic event. Moreover, Duhaylongsod fails to teach or suggest an emergency medical kit that includes a portable oxygen tank.

Applicant submits that the claims as amended herein set out a combination of features that is not taught or suggested by any of the prior art of record. The invention claimed herein addresses the need for a simple low cost portable emergency medical kit that could save the life or reduce permanent tissue damage of a victim of a serious attack of a vascular disease such as a heart attack, stroke or other life threatening condition caused by vascular disease or trauma in a person that has a known susceptibility to such an attack. An emergency medical kit including breathable oxygen and a medication or combination of medications for administering treatment and especially for self administering treatment for a serious attack of a vascular disease during the period between the onset of symptoms and the arrival of a trained medical professional can save a persons life, yet is nowhere suggested in the cited prior art nor is there a suggestion that such a medical kit would be desirable.

Accordingly, Applicant hereby submits that each of the pending claims is in condition for allowance because the elements and limitations set forth in the claims are not anticipated or suggested by any of the prior art of record whether the prior art of record is taken alone, in combination or in combination with the knowledge of one having ordinary skill in the art at the time the invention was made.

If the Examiner feels that any further discussion of the invention would be helpful, perhaps in the form of an Examiner's Amendment, applicant's representative is available at (781) 541-6579 and earnestly solicits such discussion.

Respectively submitted,

Applicants



By: Edward L. Kelley
Agent for Applicant
Reg. No. 41,112
4 Militia Drive
Lexington, MA 02421

Date: April 23, 2005